

REMARKS

Summary of the Office Action

Claims 1 – 5 stand objected to for an informality.

Claims 1 and 2 stand rejected under 35 U.S.C. § 102(b) as allegedly anticipated by U.S. Patent No. 2,552,703 (“Alonso”).

Claims 3 – 5 stand rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Alonso in view of U.S. Patent No. 5,567,122 (“Schulte”).

Summary of the Response to the Office Action

Applicant amends claim 1 to define the claimed subject matter further, and amends claims 1 – 5 to correct various informalities. Support for these amendments is found at least in Figs. 1 and 2 and the claims as originally filed. Thus, Applicant respectfully submits that the above amendments introduce no new matter within the meaning of 35 U.S.C. § 132.

Entry of the Amendment is proper under 37 C.F.R. § 1.116 because it (a) places the application in prima facie condition for allowance for the reasons discussed herein; (b) does not raise new issues requiring further search and/or consideration by the Examiner because similar subject matter was previously considered by the Examiner and thus further consideration and/or search by the Examiner is not warranted; and (c) places the application in better form for appeal, should an appeal be necessary. Applicants respectfully request entry of the present Amendment and reconsideration and timely withdrawal of the pending rejections for at least the reasons discussed below.

The Objections to the Claims

Claims 1 – 5 stand objected to for an informality. Applicant amends claims 1 – 5 to correct various informalities, including the informality noted in the Office Action, and respectfully requests that the objections to the claims be withdrawn. Applicant submits that these amendments do not narrow the intended scope of the claims, and therefore Applicant does not relinquish any subject matter by these amendments.

The Rejections under 35 U.S.C. § 102(b)

Applicant respectfully submits that the rejections of claims 1 and 2 must be withdrawn because the cited reference does not disclose, teach, or suggest all of the features of the claimed subject matter. “Anticipation requires the disclosure in a single prior art reference of each element of the claim under consideration.” *W.L. Gore & Assocs. V. Garlock*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), *cert. denied*, 469 U.S. 851 (1984). Further, “when evaluating the scope of a claim, every limitation in the claim must be considered. U.S.P.T.O. personnel may not dissect a claimed invention into discrete elements and then evaluate the elements in isolation. Instead, the claim as a whole must be considered.” *U.S.P.T.O. Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility*, page 9, October 26, 2005. As the Federal Circuit stated, “[a]nticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim.” *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984) (citing *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983)).

Here, Applicant amends claim 1 to recite in part “a single volume tube” and “two unilateral inlet valves and two unilateral outlet valves in two respective ends of an inner wall of the single volume tube.” As shown in Alonso Fig. 7, however, inlet and outlet valves 112 and 113 of Alonso Fig. 8 are separated by partitions 90 and 91. Thus, Alonso fails to disclose “two unilateral inlet valves and two unilateral outlet valves in two respective ends of an inner wall of [a] single volume tube” (emphasis added). Instead, Alonso discloses that the inlet valves and the outlet valves 112 and 113 are in two separate volumes separated by two partitions 90 and 91. Accordingly, Alonso fails to disclose each and every features of amended claim 1.

For at least this reason, Applicant submits that claim 1 is allowable. Applicant also respectfully submits that claim 2 is allowable at least because it depends from allowable claim 1. Accordingly, Applicant requests that the rejection of claims 1 and 2 under 35 U.S.C. § 102 be withdrawn.

The Rejections under 35 U.S.C. § 103

Claims 3 – 5 stand rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Alonso in view of U.S. Patent No. 5,56,122 to Schulte (“Schulte”). Applicant respectfully disagrees, and traverses these rejections for at least the following reasons.

To establish an obviousness rejection under 35 U.S.C. § 103(a), four factual inquiries must be examined. The four factual inquiries include (a) determining the scope and contents of the prior art; (b) ascertaining the differences between the prior art and the claims in issue; (c) resolving the level of ordinary skill in the pertinent art; and (d) evaluating evidence of secondary consideration. *Graham v. John Deere*, 383 U.S. 1, 17-18 (1966). In view of these four factors,

the analysis supporting a rejection under 35 U.S.C. 103(a) should be made explicit, and should “identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the [prior art] elements” in the manner claimed. *KSR Int’l. Co. v. Teleflex, Inc.*, 127 S. Ct. 1727, 1741 (2007). Furthermore, even if the prior art may be combined, there must be a reasonable expectation of success, and the reference or references, when combined, must disclose or suggest all of the claim limitations. See *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Here, even if the references could be combined with a reasonable expectation of success, the combined references do not disclose or suggest all the features of allowable claim 1, from which claims 3 – 5 depend. In other words Schulte, the secondary reference, is cited by the Examiner as allegedly teaching additional features of claims 3 – 5, but still does not teach the features of amended independent claim 1. Like Alonso, Schulte fails at least to disclose or suggest the “single volume tube” and “two unilateral inlet valves and two unilateral outlet valves in two respective ends of an inner wall of the single volume tube” recited in amended claim 1, as discussed above in the section regarding anticipation. Thus, even if one of ordinary skill in the art were to combine Schulte with Alonso, the combined references still fail to teach or suggest each and every feature of amended claim 1.

For at least these reasons, claims 3 – 5 are also allowable at least because they depend from allowable claim 1. Since none of the other prior art of record, whether taken alone or in any combination, discloses or suggests all the features of the claimed subject matter, Applicant respectfully submits that independent claim 1 and all the claims that depend therefrom are

allowable. Accordingly, Applicant respectfully requests that the rejection of claims 3 – 5 under 35 U.S.C. §103(a) be withdrawn.

#

CONCLUSION

Applicant believes that a full and complete response has been made to the pending Office Action and respectfully submits that all of the stated grounds for rejection have been overcome or rendered moot. Accordingly, Applicant respectfully submits that all pending claims are allowable and that the application is in condition for allowance.

Should the Examiner feel that there are any issues outstanding after consideration of this response, the Examiner is invited to contact Applicant's undersigned representative at the number below to expedite prosecution.

Prompt and favorable consideration of this Reply is respectfully requested.

Respectfully submitted,
THE NATH LAW GROUP

Date: June 10, 2010

/Jerald L. Meyer/

THE NATH LAW GROUP
112 South West Street
Alexandria, VA 22314-2891
Tel: 703-548-6284
Fax: 703-683-8396

Jerald L. Meyer
Registration No. 41,194
Derek Richmond
Registration No. 45,771
Robert T. Burns
Registration No. 60,545
Customer No. 20529